IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SECOND DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 1406 of 2005

Between:

B. Ramachandra Reddy, s/o Lakshmi Reddy,
Bommireddy Palli Village and Post, Kadiri Mandal, Anantapur District.

..... PETITIONER

AND

The Depot Manager, APSRTC, Kadiri Depot, Kadiri,

Anantapur District.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction more particularly one in the nature of writ of Mandamus declaring the action of the respondent in imposing major penalty vide proceedings No. 02/95(227)/01/KDR dated 30-5-2002 without conducting enquiry as illegal, arbitrary, unjustified, unsustainable, contrary to law and in violation of principles of natural justice and violation of Article 14 and 21 of the Constitution of India and set aside the same and consequently direct the respondent to add one annual increment to the pay of the petitioner and pass such other and further order or orders,

Counsel for the Petitioner:MR.ARAVALA RAMA RAO

Counsel for the Respondent : MR.P.VINAYAKA SWAMY(SC FOR APSRTC)

The Court at the stage of admission made the following :

ORDER:

The petitioner is working as a Conductor in the respondent-Corporation. He was issued a charge memo on 06-12-2001 for having committed certain cash and ticket irregularities while he was conducting the service on route Kadiri – Amadagur, and after receiving the explanation of the petitioner, the final orders were passed on 30-05-2002 imposing the penalty of withholding one annual increment with cumulative effect. The petitioner questioned the order on the ground that though withholding one annual increment with cumulative effect is a major penalty, the respondent passed the impugned order without conducting any enquiry as required under the rules. Therefore, the order is illegal and it is liable to be set aside.

2. The learned Counsel for the petitioner relied on a judgment of the Supreme Court in **Kulwant Singh Gill v. State of Punjab**[1] wherein the Supreme Court held that since the punishment imposed on the petitioner is a major punishment, the order cannot be sustained without an enquiry. The petitioner therefore seeks to declare that the order is illegal and it is liable to be set aside.

3. The petitioner after receiving the adverse orders slept over the matter for a period of two years. There are latches on his part in asserting his right regarding this issue. Though the impugned order is liable to be set aside, on account of long lapse of time in filing the writ petition and in view of the judgment of the Supreme Court in **Kulwant Singh Gill** (1 supra), I am of the view that it would be appropriate if the punishment imposed on the petitioner is treated as withholding one annual increment without cumulative effect. The petitioner is not entitled for the difference of the amount, if any, by virtue of this order for the period from the date of the impugned order till the date of this order. But, he is entitled to get increments on notional calculation from the date of this order to which he is entitled, as he had not been imposed penalty of reduction of one annual increment for one year without cumulative effect.

4. The Writ Petition is accordingly disposed of with the above observations.

2nd February, 2005.

RNS

To

1) The Depot Manager, APSRTC, Kadiri Depot, Kadiri,

Anantapur District.

2. Two CD copies

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When this matter is taken up for hearing, it is brought to the notice of this Court that this matter is squarely covered by the order of this Court passed in W.P.No.24608 of 2004, dated
29-12-2004.

Recording the same, the Writ Petition is disposed of in terms of the order in writ petition No.24608 of 2004, dated 29-12-2004.

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K.C.BHANU, J.

Dt: 02-02-2005.

Rns